JUN 11 2002 PATENT & TRADEMARK OFFICE

0410 8 2161 T.L

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231, ON THE DATE INDICATED BELOW. #4

BY: Valarie L. Benson DATE: June 6, 2002

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Patent Application of John J. Koresko, V	Group Art Unit: 2161
Conf No.:	1681	
Appln. No.:	10/086,924	
Filed:	February 28, 2002	Examiner:
For:	SYSTEM AND METHOD FOR CREATING A DEFINED BENEFIT PENSION PLAN FUNDED FUNDED WITH A VARIABLE LIFE INSURANCE POLICY AND/OR A VARIABLE ANNUITY POLICY	Attorney Docket **No. 10717-1U1**

RECEIVED
JUN 19 2002
Technology Center 2100

PETITION TO MAKE SPECIAL FOR NEW APPLICATION
UNDER MPEP § 708.02, VIII

Commissioner for Patents
Washington, DC 20231

ATTENTION: Group Director, Group 2100

1. Petition

Applicant hereby petitions to make special the above-identified new application, which has not received any examination by the Examiner.

2. Claims

All currently pending claims in the application (i.e., claims 1-36) are directed to a single invention. If the Office determines that all of the claims presented are not obviously directed to a single invention, then Applicant will make an election without traverse as a prerequisite to the grant of special status.

06/17/2002 RMEBRAHT 00000091 10086924
01 FC:122 130.00 OP

3. Search

A search has been made by a professional searcher in the following field of search:

Class 705, subclass 4

4. Copy of references

A copy of the references deemed most closely related to the subject matter encompassed by the claims at the time the application was filed were submitted with an Information Disclosure Statement (IDS) filed on February 28, 2002. The references are listed on a Form PTO-1449 filed concurrently with the IDS paper. The references are discussed below.

5. Detailed Discussion of the references

There is submitted herewith a detailed discussion of the references from the IDS which discussion particularly points out how the claimed subject matter is distinguishable over the references.

The claimed subject matter is patentably distinguishable over the references because none of the references discussed below disclose or suggest electronically generating a separate agreement that either extra-contractually modifies a life insurance policy and/or an annuity policy used to fund a defined benefit pension plan (claims 1, 3, 5, 19, 21 and 23), or defines the terms under which a life insurance policy and/or annuity policy is to be used in a defined benefit pension plan (claims 2, 4, 12, 20, 22 and 30).

Each of the independent claims 1-5, 12, 19-23 and 30 are repeated below for the Examiner's convenience. The features highlighted above which are not disclosed or suggested in any of the references are underlined.

1. A computer-implemented data-processing method for creating a defined benefit pension plan funded using variable life insurance contracts, the method comprising:

(a) entering, via at least one user interface, actuarial data used to create the defined benefit pension plan;

(b) based on the actuarial data, electronically generating a variable life insurance policy used to fund the defined benefit pension plan; and

(c) <u>electronically generating a separate agreement that extra-contractually modifies the variable life insurance policy</u>.

2. A computer-implemented data-processing method for creating a defined benefit pension plan funded using variable life insurance contracts, the method comprising:

(a) entering, via at least one user interface, actuarial data used to create the defined benefit pension plan;

(b) based on the actuarial data, electronically generating a variable life insurance policy used to fund the defined benefit pension plan; and

(c) electronically generating a separate agreement that defines the terms under which the variable life insurance policy is to be used in the defined benefit pension plan.

3. A computer-implemented data-processing method for creating a defined benefit pension plan funded using variable annuity contracts, the method comprising:

(a) entering, via at least one user interface, actuarial data used to create the defined benefit pension plan;

(b) based on the actuarial data, electronically generating a variable annuity policy used to fund the defined benefit pension plan; and

(c) electronically generating a separate agreement that extra-contractually modifies the variable annuity policy.

4. A computer-implemented data-processing method for creating a defined benefit pension plan funded using variable annuity contracts, the method comprising:

(a) entering, via at least one user interface, actuarial data used to create the defined benefit pension plan;

(b) based on the actuarial data, electronically generating a variable annuity policy used to fund the defined benefit pension plan; and

(c) electronically generating a separate agreement that defines the terms under which the variable annuity policy is to be used in the defined benefit pension plan.

5. A computer-implemented data-processing method for creating a defined benefit pension plan funded using at least one of life insurance contracts and annuity contracts, the method comprising:

(a) entering, via at least one user interface, actuarial data used to create the defined benefit pension plan;

(b) based on the actuarial data, electronically generating at least one policy selected from the group including a life insurance policy and an annuity policy, the selected policy used to fund the defined benefit pension plan; and

(c) electronically generating a separate agreement that extra-contractually modifies the selected policy.

12. A computer-implemented data-processing method for creating a defined benefit pension plan funded using at least one of life insurance contracts and annuity contracts, the method comprising:

(a) entering, via at least one user interface, actuarial data used to create the

defined benefit pension plan;

(b) based on the actuarial data, electronically generating at least one policy selected from the group including a life insurance policy and an annuity policy, the selected policy used to fund the defined benefit pension plan; and

(c) electronically generating a separate agreement that defines the terms under which the selected policy is to be used in the defined benefit pension plan.

19. A system for creating a defined benefit pension plan funded using variable life insurance contracts, the system comprising:

(a) at least one user interface for entering actuarial data used to create the defined benefit pension plan; and

(b) at least one processor that receives the actuarial data from the user interface and, in response, electronically generates a defined benefit pension plan that includes:

(i) a variable life insurance policy used to fund the defined benefit pension plan; and

(ii) a separate agreement that extra-contractually modifies the variable life insurance policy.

20. A system for creating a defined benefit pension plan funded using variable life insurance contracts, the system comprising:

(a) at least one user interface for entering actuarial data used to create the defined benefit pension plan; and

(b) at least one processor that receives the actuarial data from the user interface and, in response, electronically generates a defined benefit pension plan that includes:

(i) a variable life insurance policy used to fund the defined benefit pension plan; and

(ii) a separate agreement that defines the terms under which the variable life insurance policy is to be used in the defined benefit pension plan.

21. A system for creating a defined benefit pension plan funded using variable annuity contracts, the system comprising:

(a) at least one user interface for entering actuarial data used to create the defined benefit pension plan; and

(b) at least one processor that receives the actuarial data from the user interface and, in response, electronically generates a defined benefit pension plan that includes:

(i) a variable annuity policy used to fund the defined benefit pension plan; and

(ii) a separate agreement that extra-contractually modifies the variable annuity policy.

22. A system for creating a defined benefit pension plan funded using variable annuity contracts, the system comprising:

(a) at least one user interface for entering actuarial data used to create the defined benefit pension plan; and

(b) at least one processor that receives the actuarial data from the user interface and, in response, electronically generates a defined benefit pension plan that includes:

(i) a variable annuity policy used to fund the defined benefit pension plan; and

(ii) a separate agreement that defines the terms under which the variable annuity policy is to be used in the defined benefit pension plan.

23. A system for creating a defined benefit pension plan funded using at least one of life insurance contracts and annuity contracts, the system comprising:

(a) at least one user interface for entering actuarial data used to create the defined benefit pension plan; and

(b) at least one processor that receives the actuarial data from the user interface and, in response, electronically generates a defined benefit pension plan that includes:

(i) at least one policy, selected from the group including a life insurance policy and an annuity policy; and

(ii) a separate agreement that extra-contractually modifies the selected policy.

30. A system for creating a defined benefit pension plan funded using at least one of life insurance contracts and annuity contracts, the system comprising:

(a) at least one user interface for entering actuarial data used to create the defined benefit pension plan; and

(b) at least one processor that receives the actuarial data from the user interface and, in response, electronically generates a defined benefit pension plan that includes:

(i) at least one policy, selected from the group including a life insurance policy and an annuity policy; and

(ii) a separate agreement that defines the terms under which the selected policy is to be used in the defined benefit pension plan.

Dependent claims 6-11, 13-18 and 24-29 incorporate the features of independent claims 5, 12 and 23, respectively, and thus are deemed patentable over the prior art of record. A discussion of the references follows below:

U.S. Patent No. 6,049,772 (Payne et al.) discloses a system for managing hedge funds. The Payne et al. patent discloses providing a life insurance policy or annuity contract which includes partial participation in stock market returns with specified caps and floors. The

purchase and sale of options is used to hedge against changes in stock prices. There is no disclosure or suggestion to use a separate agreement to extra-contractually modify the life insurance policy or insurance contract.

U.S. Patent No. 5,999,917 (Facciani et al.) discloses an automated system for managing the assets and liabilities of a Non-Qualified Deferred Compensation (NQDC) plan. There is no disclosure or suggestion to use a separate agreement to extra-contractually modify the NQDC plan.

U.S. Patent No. 5,933,815 (Golden) discloses a computerized method and system for providing a guaranteed lifetime income plan with liquidity using Guaranteed Interest Rate Options (GIROs). There is no disclosure or suggestion to use a separate agreement to extra-contractually modify the guaranteed lifetime income plan.

U.S. Patent No. 5,913,198 (Banks) discloses a computer-implemented system and method for designing and administering self-funded survivor benefit plans. The Banks patent discloses using stocks, bonds and variable life insurance contracts to fund the benefit plans. There is no disclosure or suggestion to use a separate agreement to extra-contractually modify the self-funded survivor benefit plan.

U.S. Patent No. 5,752,236 (Sexton et al.) discloses life insurance methods, systems and products which revolve around having an insurance plan with at least two separate but related insurance contracts on the same insured party. There is no disclosure or suggestion to use a separate agreement to extra-contractually modify the insurance plan.

U.S. Patent No. 5,136,502 (Van Remortel et al.) discloses a system for funding and managing retiree health care benefits. Van Remortel's system uses a Voluntary Employee Beneficiary Association (VEBA) trust in accordance with the Financial Accounting Standards Board (FASB) promulgated accounting standard 106 to cover the costs of retiree health care benefits. The Van Remortel et al. patent discloses using variable life insurance contracts to insure the lives of a company's employees. Upon the death of an employee, the life insurance proceeds are used to pay for the health care benefits of the entire employee population (see col. 5, lines 40-48). There is no disclosure or suggestion to use a separate agreement to extra-contractually modify the VEBA trust.

The "Berkshire" website non-patent literature discloses that 412(i) defined benefit plans may be funded by life insurance and annuity contracts. There is no disclosure or

suggestion to use a separate agreement extra-contractually modify the 412(i) defined benefit plans.

The CJA and Associates non-patent literature, entitled "§412(i) Defined Benefit Fully Insured Pension Plans - An Alternative To Traditional Pension Plan Funding," discloses funding a 412(i) plan with "insurance products." The CJA and Associates non-patent literature also discloses "amending" a 412(i) plan to be either a split-funded 401(a) plan with life insurance coverage or a standard 401(a) plan without life insurance coverage (see page 6). There is no disclosure or suggestion to use a separate agreement to extra-contractually modify the 412(i) plan, particularly with respect to the terms under which a life insurance policy and/or an annuity policy is to be used in a defined benefit pension plan, or for modifying the life insurance coverage itself.

6. Fee

The fee required by 37 CFR 1.17(i) is to be paid by the enclosed check for **$130.00**. Please charge any fee deficiency to Deposit Account No. 50-1017 (Akin, Gump Billing No. 210717.0002).

Respectfully submitted,

JOHN J. KORESKO, V

June 6, 2002
(Date)

By: Clark Jablon

CLARK A. JABLON
Registration No. 35,039
AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
One Commerce Square
2005 Market Street - Suite 2200
Philadelphia, PA 19103
Telephone: 215-965-1200
Direct Dial: 215-965-1293
Facsimile: 215-965-1210
E-Mail: cjablon@akingump.com

CAJ:SW
Enclosure